

May 18, 2011

Hon. Sandra J. Feuerstein, U.S.D.J.  
United States District Court  
Eastern District of New York  
100 Federal Plaza  
Central Islip, NY 11722

Re: Kovarik v. County of Suffolk , et al.  
CV10-1623 (SJF)(ETB)

Dear Judge Feuerstein:

I write in response to the letter of plaintiff's counsel dated May 17, 2011, wherein he requests a two week adjournment of the trial now scheduled to begin on May 23, 2011.

There is no need to adjourn the trial based upon Mr. Germano's speculation that plaintiff will be unable to comply with defendants' demand for the transcript of officer Kieseheuer's yet to be conducted deposition. If plaintiffs do not have the transcript in their possession prior to trial, they will not be able to use same at trial, and the risk of prejudice will thereby be eliminated. If they obtain the transcript prior to trial, then they are able to provide a copy to defendants.

Although Mr. Germano, in an effort to delay the trial, attempts to create the impression that defendants somehow prevented plaintiff from earlier conducting depositions, nothing could be further from the truth. Although plaintiff had approximately eight months to conduct discovery, she failed to conduct any depositions within that time frame. In contrast, defendants deposed plaintiff and her two sons in that period.

Defendants and I have already devoted a great deal of time and effort preparing for trial. The Police Department has made numerous changes in officers' tour schedules to enable the trial to proceed as scheduled. Accordingly, defendants respectfully request that plaintiff's last minute request for an adjournment of the trial be denied.

Very truly yours,

Christine Malafi  
Suffolk County Attorney

---

Arlene S. Zwilling AZ/5918  
Assistant County Attorney

ASZ:snl  
cc: William Germano, Esq.